IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER

TWO THOUSAND AND FOUR

PRESENT

HON'BLE MR. JUSTICE N.V. RAMANA

WRIT PETITION NO : 23047 of 2004

Between:

Vemireddy Sundaraiah

S/o.Kondaiah
R/o Ranga Samudram Village,

Dagadarthi Mandal, Nellore District.

..... PETITIONER

AND

1 The Mandal Revenue Officer,

Dagadarthi Mandal, Dagadarthi, Nellore District.
2 The Revenue Divisional Officer Kavali, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to direct the 1st respondent not to assign the dry land of
Ac.4-86 cents comprised in Survey No.2/2 situated in Ranga Samudram Village, Dagadarthi Mandal, Nellore District, without following the provisions of A.P. Assigned lands (Prohibition of Transfer) Act, 1977 pending disposal of the appeal and stay petition preferred to the 2nd respondent challenging the proceedings of the 1st respondent dated 11.9.2004 bearing Rc.No.B-252/2004 issued in abuse of

provisions of Act 9 of 1977 as illegal, arbitrary, unjust and in violation of Articles 14, 21 of Constitution of India and the provisions of Act 1977.

Counsel for the Petitioner :MR.M.VENKATA NARAYANA

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue and at their request, the writ petition itself is taken up for hearing at the stage of admission.

The petitioner seeks writ of mandamus declaring the action of first respondent in proposing to assign an extent of Acs.4-86 cents of dry land in Sy.No.2/2 in Ranga Samudram village, Dagadarthi Mandal, Nellore, without following the procedure contemplated under A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 especially when his appeal challenging the proceedings of first respondent dated 11-09-2004 is pending with the second respondent, as illegal and arbitrary.

The facts necessary for disposal of the writ petition are that the petitioner claiming to be landless poor person, has made an application for assignment of land and therefore, he was assigned an extent of Acs.4-86 cents of dry land in the said survey number and was also put in possession of the same. As such, the petitioner is in possession and enjoyment of the land in question. The first respondent had also issued pattadar

pass-book and title deed in favour of the petitioner on

03-02-2004. The case of the petitioner is that Yeddala Venkateswarlu was looking after the assigned land under his instructions and that he has no right or interest in the land.

While so, the first respondent issued notice dated

28-07-2004 to the petitioner alleging that he had contravened the conditions of assignment and to show cause why the assigned land should not be resumed. Similar notice was also issued to

Y.Venkateswarlu alleging that he had purchased the assigned land and is in possession and enjoyment of the same and to show cause why he should not be evicted. Both the petitioner and Y.Venkateswarlu submitted explanations dated 11-08-2004 stating that the assigned land was not sold and the petitioner is in possession and enjoyment of the same. The first respondent - Mandal Revenue Officer, Dagadarthi, Nellore district, after considering the explanations of the petitioner and said person and after verification of the assigned land, passed the impugned order dated 11-09-2004 holding that the assignee had alienated the assigned land thereby violating the conditions of grant of

D-Form patta. Thus, the land assigned in favour of the petitioner was resumed to the Government. Aggrieved by the order dated

11-09-2004, petitioner preferred appeal along with an application seeking suspension of the order, before the second respondent. The petitioner alleges that the first respondent is proposing to assign the land in favour of third parties even when the appeal preferred by the petitioner is pending before the second respondent as the second respondent has not passed any interim order. Hence, this writ petition is filed challenging the proposed assignment of land in question.

A perusal of the writ averments reveals that the respondent had assigned Ac.4-86 cents of dry land in favour of petitioner and a notice was also issued to the petitioner and Y.Venkateswarlu to show cause why the assigned land should not be resumed. Explanations have also been submitted to the show cause notice and the Mandal Revenue Officer after considering the explanation and verification in the village,

ordered resumption of land in favour of the Government. Apart from this, it has to be noticed that the petitioner has already preferred an appeal along with an application for suspension of the order of Mandal Revenue Officer, before the second respondent. It is stated that the second respondent has not passed any interim order. Having regard to the fact that the appeal as also the application seeking stay of the order dated 11-09-2004 are pending before the second respondent, I am not inclined to adjudicate the merits of the writ petition. In these circumstances, I deem it just and proper to direct the second respondent to pass appropriate orders on the petition seeking suspension of the proceedings of first respondent dated 11-09-2004 pending disposal of the appeal. Till passing of such interim orders, *status quo* obtaining as on today shall be maintained by the parties.

The writ petition is accordingly disposed of at the stage of admission.

15-12-2004

bsc

To

1 The Mandal Revenue Officer,

Dagadarthi Mandal, Dagadarthi, Nellore District.
2 The Revenue Divisional Officer Kavali, Nellore District.

3. 2 CCs to Govt. Pleader for Revenue, High Court buildings,

Hyderabad (OUT)

4. 2CD copies